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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,016	09/08/2000	Kenneth D. Simone JR.	068520.0107	2773

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EXAMINER	
MAHMOUDI, HASSAN	
ART UNIT	**PAPER NUMBER**
2175	9

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/658,016	SIMONE ET AL.	
	Examiner	Art Unit	
	Tony Mahmoudi	2175	

-- Th MAILING DATE of this communication app ars on the cover she t with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

D.P. 12/12/03

1)☒ Responsive to communication(s) filed on *26 September 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Remarks

1. In response to communications filed on 26-September 2003, claims 1-14 are presently pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 8 recite the limitation "different" in line 3. The term "different" is a relative term, which renders the claim indefinite. The term "different" is not defined within the claim, and the specification does not provide a standard to measure a degree of "difference" or certainty. It is not clear from the claims whether "the definitions" are to be "different" from one another, or "different" from other entities. For the purpose of examining the application, the examiner is making the assumption that the term "different" recited in claims 1 and 8 means "distinct from each other". Appropriate correction is required.

Claims 2-7 are rejected under 35 U.S.C. 112, second paragraph, as being dependents from rejected independent claim 1.

Claims 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being dependents from rejected independent claim 8.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 6, 8-10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Penn (U.S. Patent No. 5,848,198.)

As to claim 1, Penn teaches a method (see column 1, lines 10-20), comprising the steps of:

providing a set of predetermined function definitions which are different (see column 32, lines 31-48); and

preparing a project definition, the project definition including:

a plurality of function portions which each correspond to one of the function definitions in the set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition (see column 28, lines 39-41), one of the function portions also defining a control port (see column 21, lines 14-52)

which is functionally related to the input and output ports thereof according to the corresponding function definition, the one function portion being configured to process image information according to the corresponding function definition in a manner which varies under control of information at the control port (see column 24, line 66 through column 25, line 8);

a further portion which includes a source portion identifying a data source and defining an output port through which data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which data can be supplied to the data destination (see column 6, lines 60-67);

information which includes a definition of control information for the control port of the one function portion (see column 11, lines 37-44); and

binding information which includes binding portions that each associate a respective the input port with one of the output ports (see column 19, lines 5-9, where "binding information" is read on "header containing descriptive information");

wherein the preparing step includes the step of preparing the one function portion for inclusion in the project definition by permitting interactive user adjustment of working information which will become the control information (see column 19, lines 10-17), while simultaneously displaying a sample image processed according to the function definition corresponding to the one function portion as characterized by the current state of the working information (see column 19, lines 31-43.)

As to claims 2 and 9, Penn teaches the step of including in the set a selected function definition which can add to an image a specified effect having characteristics determined by control input supplied to the selected function definition (see column 9, lines 47-54); and

wherein the step of preparing the one function portion includes the step of indicating that the one function portion corresponds to the selected function definition, the control information of the one function portion being provided for use as the control input for the selected function definition (see column 8, lines 40-60.)

As to claims 3 and 10, Penn teaches the step of selecting as the selected function definition a bevel function definition for which the specified effect is the addition to an image of a bevel effect having characteristics determined by the control input to the bevel function definition (see column 10, lines 9-24.)

As to claims 6 and 13, Penn teaches wherein the step of including the selected function definition in the set includes the step of selecting as the selected function definition an image adding function definition for which the specified effect is the addition to an image of a further image having characteristics determined by the control input to the image adding function definition (see column 9, lines 55-67.)

As to claim 8, Penn teaches a computer-readable medium encoded with a computer program (see column 13, lines 54-64, and see column 15, lines 61-65) which recognizes a set of predetermined function definitions that are different (see column 32, lines 31-48); the

program being operable when executed to facilitate preparation of a project definition (see column 19, lines 10-17) which includes (for the remaining teachings of this claim, the applicant is directed to discussions and remarks made in claim 1 above.)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 4-5, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Penn (U.S. patent No. 5,848,198) in view of Wise et al (U.S. patent No. 6,130,676.)

As to claims 4 and 11, Penn does not teach a blur function definition for which the specified effect is the addition to an image of a blurring effect.

Wise et al teaches image composition system (see Abstract), in which he teaches a blur function definition for which the specified effect is the addition to an image of a blurring effect (see column 5, lines 1-14.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Penn to include a blur function definition for which the specified effect is the addition to an image of a blurring effect.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Penn by the teaching of Wise et al, because including a blur function definition for which the specified effect is the addition to an image of a blurring effect, would enable the user to modify image properties to a desired setting for enhanced viewing of the displayed image.

As to claims 5 and 12, Penn does not teach a tint function definition for which the specified effect is the addition to an image of a tint effect having characteristics determined by the control input to the tint function definition.

Wise et al teaches image composition system (see Abstract), in which he teaches a tint function definition for which the specified effect is the addition to an image of a tint effect having characteristics determined by the control input to the tint function definition (see column 5, lines 1-14.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Penn to include a tint function definition for which the specified effect is the addition to an image of a tint effect having characteristics determined by the control input to the tint function definition.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Penn by the teaching of Wise et al, because including a tint function definition for which the specified effect is the addition to an image of a tint effect having characteristics determined by the control input to the tint function definition,

would enable the user to adjust image properties (colors) to a desired setting for enhanced viewing of the displayed image.

8. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Penn (U.S. patent No. 5,848,198) in view of Marcus (U.S. patent No. 5,481,668.)

As to claims 7 and 14, Penn does not teach a text adding function definition for which the specified effect is the addition to an image of a text string having characteristics determined by the control input to the text adding function definition.

Marcus teaches information control system (see Abstract), in which he teaches a text adding function definition for which the specified effect is the addition to an image of a text string having characteristics determined by the control input to the text adding function definition (see column 8, lines 30-45.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Penn to include a text adding function definition for which the specified effect is the addition to an image of a text string having characteristics determined by the control input to the text adding function definition.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Penn by the teaching of Marcus, because a text adding function definition for which the specified effect is the addition to an image of a text string having characteristics determined by the control input to the text adding function definition, would enable the user to specify descriptions associated with the image, helping the retrieval of the desired image, as taught by Marcus (see column 8, lines 38-45.)

Response to Arguments

9. Applicant's arguments filed on 26-September 2003 with respect to the rejected claims in view of the cited references have been fully considered but they are not fount to be persuasive:

In response to applicants' arguments that "since the office action does not indicate that the Examiner considered the first IDS on the merits, the office action is incomplete", the arguments have been fully considered but are not found persuasive because **37 CFR 1.98(a)(2)(iii)** requires a copy of a pending U.S. application that is being cited in an IDS. If the pending U.S. application is only identified in the specification's background information rather than being part of an IDS submission, a copy need not be supplied (see *MPEP § 609 III A(2) Legible copies (D)*. Since the first IDS (paper number 2), filed on 15-November-2000 contained only a listing of the co-pending application indicating that all the co-pending applications were filed on the same day (08-September-2000) with the filing of the application currently being examined, and no legible copies of the co-pending applications were supplied, the co-pending applications were not considered on their merits. Therefore, the previous office action (paper number 7) was indeed complete. If the applicants wish to have the co-pending applications listed on the first IDS (paper number 2) considered by the examiner, legible copies of the applications need to be submitted in compliance with **37 CFR 1.98(a)(2)(iii)**.

In response to applicant's arguments regarding the rejection of claims under *35 USC § 112* second paragraph, the arguments have been fully considered but are not found persuasive

because the examiner notes that "acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed , in light of the specification." Claims 1 and 8 recite "a set of predetermined function definitions which are different". The claims do not indicate what the "difference" is based on and the specification does not provide a standard to establish the "difference" or to measure the "degree of difference or certainty". The recitations of "a set of predetermined function definitions which are different" render claims 1 and 8 as indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention. Therefore, claims 1 and 8, and their dependent claims remain rejected under ***35 USC § 112*** second paragraph.

In response to applicants' arguments that "it does not appear that the Penn patent contains anything which is even remotely similar to the subject matter of claim 1" and that the cited references "say absolutely nothing about any kind of source portion or data source from which the analysis image is obtained before being analyzed or processed" and that the reference says "absolutely nothing about any destination portion or data destination to which the analysis image or original image is sent after being analyzed or processed", the arguments have been fully considered but are not found persuasive, because in the Abstract of his invention, Penn clearly teaches "Data from multiple image sources are processed with a memory storing a library of data catalogs, each corresponding to one of the image sources." Further, Penn discloses " The method of the invention enables different types of computers to be used for (a) the subsystem which generates and models the binary images from

the input source and the data library (steps 1-6) and (b) the subsystem which reverses this operation (step 7)" (see column 14, lines 41-45, and see figure 4, and column 20, lines 50-63). "Analysis and processing" of the image is also taught by Penn (see column 1, lines 10-20, column 2, line 67 through column 3, line 3.) Finally, Penn teaches "destination portion or data destination to which the analysis image or original image is sent after being analyzed or processed" (see figure 17, column 21, lines 4-10, and see column 34, lines 61-63, where "destination" is read on "output".)

In response to applicants' arguments that the cited reference does not teach "a recitation of control information for the control port of a function portion", the arguments have been fully considered but are not found persuasive, because Penn teaches "information" that "controls" images (see column 3, lines 27-38, column 7, lines 8-25, and see column 9, lines 11-17.)

In response to applicant's arguments regarding claim 8, the arguments have been fully considered but are not found persuasive in view of the remarks and discussions made for claim 1 above.

In response to applicant's arguments regarding claims 2-7 and 9-14, the arguments have been fully considered but are not found persuasive in view of the remarks and discussions made above.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Tony Mahmoudi whose telephone number is (703) 305-4887. The examiner can normally be reached on Mondays-Fridays from 08:00 am to 04:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici, can be reached at (703) 305-3830.

tm

December 3, 2003

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SUPERVISORY PATENT EXAMINER
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